

Exhibit B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 18-CR-00681(WFK)

-against-

: United States Courthouse
: Brooklyn, New York

JEAN BOUSTANI,

: Thursday, March 28, 2019
: 12:00 p.m.

Defendant.

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TRANSCRIPT OF CRIMINAL CAUSE FOR STATUS CONFERENCE
BEFORE THE HONORABLE WILLIAM FRANCIS KUNTZ, II
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

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DAVID M. FUHR, ESQ.

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A P P E A R A N C E S: (Continued)

For the Defendant: WILLKIE FARR & GALLAGHER, LLP
787 Seventh Avenue
New York, New York 10019
BY: RANDALL W. JACKSON, ESQ.
MICHAEL S. SCHACHTER, ESQ.
CASEY E. DONNELLY, ESQ.

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Official Court Reporter
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(In open court.)

THE COURTROOM DEPUTY: All rise.

(Judge WILLIAM F. KUNTZ, II entered the courtroom.)

THE COURTROOM DEPUTY: The Honorable William F.

Kuntz, II is now presiding.

Criminal cause for status conference, docket number
18-CR-681, USA versus Boustani, et al.

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1 Counsel, please state your appearances for the
2 record and spell your first and your last names for the court
3 reporter.

4 (Defendant entered the courtroom.)

5 MR. AMATRUDA: Matthew Amatruda for the United
6 States. M-A-T-T-H-E-W, A-M-A-T-R-U-D-A.

7 Good afternoon, Your Honor.

8 THE COURT: Good afternoon, Mr. Amatruda. You may
9 be seated.

10 MR. AMATRUDA: Thank you, Your Honor.

11 MR. BINI: Mark Bini for the United States, M-A-R-K,
12 B-I-N-I.

13 THE COURT: Good afternoon, Mr. Bini. You may be
14 seated.

15 MS. MOESER: Margaret Moeser for the United States.
16 M-A-R-G-A-R-E-T, M-O-E-S-E-R.

17 Good afternoon, Your Honor.

18 THE COURT: You may be seated as well. Good
19 afternoon.

20 MR. FUHR: David Fuhr for the United States.
21 F-U-H-R. Good afternoon.

22 THE COURT: Good afternoon, sir. You may be seated.

23 SPECIAL AGENT TASSONE: Special Agent Angela Tassone
24 from the FBI. T-A-S-S-O-N-E.

25 THE COURT: And would you spell your name for the

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1 reporter:

2 SPECIAL AGENT TASSONE: T-A-S-S-O-N-E.

3 THE COURT: Good afternoon, Special Agent. You may
4 be seated.

5 SPECIAL AGENT TASSONE: Thank you.

6 SPECIAL AGENT HAQUE: Special Agent Fatima Haque
7 with the FBI. F-A-T-I-M-A, H-A-Q-U-E.

8 THE COURT: Good afternoon, Special Agent. You may
9 be seated.

10 MR. JACKSON: Good afternoon, Your Honor. Randall
11 Jackson on behalf of Mr. Boustani. That's R-A-N-D-A-L-L,
12 J-A-C-K-S-O-N.

13 THE COURT: Good afternoon, Mr. Jackson. You may be
14 seated.

15 MR. SCHACHTER: Good afternoon, Your Honor. Michael
16 Schachter on behalf of Mr. Boustani. It's Michael,
17 M-I-C-H-A-E-L; Schachter, S-C-H-A-C-H-T-E-R.

18 THE COURT: Good afternoon. You may be seated as
19 well.

20 THE DEFENDANT: Good afternoon, Your Honor. Jean
21 Boustani, J-E-A-N, B-O-U-S-T-A-N-I.

22 THE COURT: Good afternoon, Mr. Boustani. You may
23 be seated.

24 THE DEFENDANT: Thank you.

25 MS. DONNELLY: And I'm Casey Donnelly on behalf of

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1 Mr. Boustani, C-A-S-E-Y, D-O-N-N-E-L-L-Y.

2 THE COURT: Good afternoon. You may be seated as
3 well. Thank you.

4 We are here for a status conference in this action,
5 United States versus Boustani, 18-CR-681. The defendant,
6 Mr. Boustani, who is present here today, is currently in
7 custody.

8 The background is as follows:

9 On December 18th of 2018 a grand jury of the United
10 States of America returned a four-count indictment against
11 this defendant and others charging:

12 1. Conspiracy to commit wire fraud in violation of
13 Title 18 United States Code Section 1349;

14 2. Conspiracy to commit securities fraud in
15 violation of Title 18 United States Code Section 371;

16 3. Conspiracy to violate the FCPA anti-bribery and
17 internal controls provisions in violation of Title 18 United
18 States Code Section 371; and

19 4. Conspiracy to commit money laundering in
20 violation of Title 18 United States Code Section 1956(h).

21 This defendant is charged with Counts 1, 2 and 4.

22 The indictment avers this defendant created, with
23 others, maritime projects as fronts to raise money to enrich
24 themselves and diverted, with others, portions of loan
25 proceeds to pay at least \$20 million in bribes and kickbacks

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1 to themselves, government officials in and of Mozambique, and
2 others.

3 On January 2nd of 2019, this defendant was arraigned
4 on the indictment before the Honorable Magistrate Judge Peggy
5 Kuo and the defendant pled not guilty to all charges set forth
6 in all counts. Denying the defendant's first bail
7 application, Magistrate Judge Kuo ordered detention, but
8 granted the defendant leave to renew his bail application.

9 On January 8th of 2019 the defense appealed the
10 order of detention to this court.

11 On January 22nd of 2019 this Court held its first
12 status conference in this case. The United States Government
13 reported it produced its first round of Rule 16 discovery,
14 including one million pages and bank records identifying what
15 it claimed were illegal transactions and expected and
16 anticipated it would be able to provide and would provide
17 additional discovery on or before February 1st of 2019. The
18 Court designated the case complex and entered an order of
19 excludable delay. The Court then heard oral argument on the
20 appeal of detention. The Court reserved decision, and on
21 February 4th of 2019 this Court denied the defendant's motion
22 appealing the order of detention.

23 The defendant subsequently appealed that order to
24 the United States Court of Appeals of the Second Circuit.

25 On February 7th of 2019 this Court held its second

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1 status conference in this case. First, the Government
2 reported it had already produced and anticipated producing
3 hundreds of thousands of documents to complete its Rule 16
4 discovery obligations on or before March 31st of 2019.
5 Secondly, the Government discussed its progress on extraditing
6 the other defendants in this case. The Government submitted
7 defendant Manuel Chang, C-H-A-N-G, to his formal extradition
8 to the South African government, which was expected to be
9 discussed at Defendant Chang's hearing on February 26th of
10 2019. The Government also stated it did not know when the
11 extradition process in the United Kingdom would conclude.
12 Defense counsel advised the Court that it might take up to
13 three years for the defendants to be extradited from the
14 United Kingdom and there is the possibility Defendant Chang
15 will never be extradited from South Africa. However, as the
16 United States Government conceded, at this point there are no
17 other defendants and the Government is prepared to proceed
18 without them.

19 The Court will commence trial of this action on
20 Monday, October 7th of 2019 at 9:30 a.m. in this courtroom.
21 Counsel should calendar that date and that time.

22 Finally, the defense counsel informed the Court that
23 he requested search items from the Government, that the
24 Government had failed to produce documents to the defense.
25 The Court ordered the parties to submit a joint briefing

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1 schedule on the search terms in the event the parties failed
2 to reach an agreement on that issue. Time was excluded in the
3 interest of justice to today's date, March 28th of 2019.

4 In a letter to the Court dated February 28th of 2019
5 the parties reported that they had resolved their issues
6 regarding the search terms. The Government filed letters on
7 March 12th, 2019 and March 19th, 2019, March 21st of 2019 and
8 March 27th of 2019 stating it had produced additional Rule 16
9 discovery and requested reciprocal discovery from the
10 defendant.

11 On March 7th of 2019 the United States Court of
12 Appeals for the Second Circuit unanimously affirmed this
13 Court's order on the defendant's appeal of detention and
14 denied the defendant's appeal without prejudice to present a
15 further bail application before this Court in the first
16 instance. The Second Circuit noted in the event the defendant
17 presents an amended bail package, the Government shall
18 continue to bear the burden of establishing by a preponderance
19 of the evidence that, one, the defendant presents an actual
20 risk of flight; and two, that no condition or combination of
21 conditions could be imposed that would reasonably assure his
22 presence in court.

23 On March 19th of 2019 defense counsel submitted an
24 amended bail package that includes the conditions described in
25 the initial bail application and proposes additional or

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1 amended items as follows:

2 1. A \$20 million personal recognizance bond secured
3 by a \$2 million in cash position from personal accounts and
4 \$7 million in cash posted by defendant's father; amounting to
5 75 percent of the combined cash assets of the defendant and
6 his father;

7 2. A waiver of extradition relinquishing his rights
8 to fight extradition to the United States from anywhere in the
9 world;

10 3. The advancement of a year's worth of fees to
11 Guidepost or any private security firm designated by the
12 Government; and

13 4. An agreement to revisit the bail package in the
14 event the defendant's co-defendants cannot afford private
15 security as a condition of release.

16 Defense counsel also argues the Government's case
17 against the defendant is "substantially flawed" because the
18 indictment impermissibly applies wire fraud and securities
19 fraud statutes to reach extraterritorial conduct lacking a
20 sufficient domestic nexus. The defense asserts the securities
21 fraud statute does not extend to foreign securities trades
22 executed on foreign exchanges, even if purchased or sold by
23 American investors and even if some aspects of the transaction
24 occurred in the United States. According to defense counsel,
25 in order to properly allege a domestic application of the wire

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1 fraud statute, the Government must show defendant committed a
2 substantial portion of the conduct in the United States of
3 America and that the conduct in the United States of America
4 was integral to the commission of the scheme to defraud.

5 Relying on the use of domestic wires is simply not enough.

6 See the renewed application for bail at ECF number 54.

7 On March 26th of 2019 the Government filed its
8 response in opposition to the defendant's renewed bail
9 application. The Government averred defendant remained a
10 flight risk and asserts the amended bail application fails to
11 assure reasonably his appearance for the following reasons:

12 First, the amount of cash offered to secure his bond
13 stems from the charged criminal scheme, the source of funds,
14 as was questioned and raised by Judge Raggi of the Second
15 Circuit in the oral argument of the appeal.

16 Secondly, the waiver of extradition would have no
17 practical or binding effect because a waiver of extradition
18 does not compel the nation in which the defendant would find
19 himself to honor the waiver.

20 Third, the defendant's offer to advance a year's
21 worth of fees to Guidepost or any other security firm
22 designated by the Government would not alleviate the inherent
23 conflict of interest faced by private jailers paid by the
24 defendant or his employer who might be called upon to exert
25 force, perhaps up to and including deadly force, to stop the

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1 defendant from an attempted escape.

2 Fourth, the agreement to revisit his proposed bail
3 conditions in the event his co-defendants were extradited to
4 the United States and detained upon the basis that they could
5 not afford private security would not prevent this defendant
6 from fleeing before any of his co-defendants arrived, should
7 that ever be the case.

8 The Government further argues its application of the
9 wire fraud and securities statutes is domestic. In its view,
10 the Government actors, including the Securities Exchange
11 Commission and the Department of Justice, have
12 extraterritorial jurisdiction analogous to 304 jurisdiction of
13 bankruptcy courts over securities fraud violations where
14 significant conduct or foreseeable effects occur in the United
15 States of America. Moreover, the conspiracy charged is
16 domestic because it encompasses purchases of loan
17 participation notes and bonds by investors physically present
18 in the United States.

19 Finally, the Government argues the focus of the wire
20 fraud statute in the use of wires, which in this case occurred
21 domestically in the United States and in New York City. The
22 Government concludes that no combination of conditions will
23 reasonably assure the defendant's appearance in future court
24 proceedings.

25 Last evening the Court received, by way of ECF

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1 filing, an eight-page letter from defense counsel. The letter
2 makes the following points:

3 First, it alleges that the posting of a majority of
4 Mr. Boustani's and his father's assets provides sufficient
5 moral suasion to ensure Mr. Boustani's appearance. Some
6 people don't think morality is what counts, it's getting
7 caught is what counts, but here we have the assertion of moral
8 suasion.

9 In any event, on page 3 of the letter, again, the
10 word moral force is used. It says midway through the first
11 full paragraph: It is hard to imagine a moral force more
12 compelling on Mr. Boustani than harm to those he loves most in
13 the world.

14 Page 3 also says further down that Mr. Boustani
15 presumed innocent; quite so. But it also states his earnings
16 from his lawful employment should be presumed to be legitimate
17 funds. That is not the position asserted by my learned Second
18 Circuit colleague Judge Raggi. Because while it may or may
19 not be the issue, Judge Raggi made it clear at the oral
20 argument that the source of funds is an issue in this case
21 that is of importance to her and to the judges on the Second
22 Circuit who heard this case. And as Judge Carney opined at
23 the time of the oral argument, it is clear that the question
24 of flight risk has not been sufficiently addressed to the
25 satisfaction of the Second Circuit at the time of the argument

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1 to the Second Circuit.

2 The second point in the letter that came in last
3 night from the Willkie Farr law firm is the Government's
4 objections to Mr. Boustani's other additional conditions do
5 not satisfy its burden of proving that no conditions will
6 reasonably ensure Mr. Boustani's appearance. And, again, they
7 pick on the issue of the waiver of extradition. And, again,
8 the issue is the issue that was raised in response by the
9 Government as to whether or not a mere waiver by an individual
10 compels a government that does not have extradition with the
11 United States to extradite a citizen. And as the Government
12 pointed out, undoubtedly, the waiver that is executed here
13 would at the time, if one was in a country and did not want to
14 be extradited from that country, the argument would be made
15 that the waiver was done under compulsion. And in any event,
16 nations that decline to have extradition treaties with the
17 United States of America would certainly not be bound by any
18 signed document by this defendant.

19 Next is the statement that Mr. Boustani's challenge
20 to the indictments are not frivolous and militate in favor of
21 granting bail. Obviously, subject matter jurisdiction cannot
22 be conferred to a limited jurisdiction court, such as this
23 district court, as an Article III court. And the question of
24 whether or not there is subject matter jurisdiction is
25 certainly one that this Court will address. There has,

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1 obviously, been an alleged statement by the defendant with
2 respect to subject matter jurisdiction and the ubiquity of the
3 great American dollar worldwide. The reality is that either
4 this Court has subject matter jurisdiction as a matter of law
5 or it does not. But in any event, those are issues that I am
6 sure will be briefed before this Court and will be decided
7 before this Court.

8 So the trial is going to commence in this action at
9 9:30 a.m. on Monday, October 7th of this year. We will pick
10 the jury here. We will go directly to trial. The amended
11 bail application is denied. It is not sufficient. This
12 defendant is still a flight risk. I am not approving it. The
13 defendant has not satisfied the moral issue, does not persuade
14 the Court, as is asserted by the Willkie Farr firm, and I do
15 not believe that putting people in countries that do not have
16 extradition with the United States in any way, shape or form
17 ensures that they will appear for trial.

18 Obviously, the Willkie Farr firm is absolutely free
19 to take an appeal, as they did before, with respect to this,
20 but I think the issues are important. I think it is clear
21 that this defendant continues to be a flight risk. I do not
22 think that the issues were adequately addressed, and I am not
23 persuaded by the moral suasion arguments that have come
24 forward by the Willkie Farr law firm in this case.

25 So having said that, I will now hear from the

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1 Government, then I will hear from defense counsel.

2 MR. AMATRUDA: Thank you, Your Honor.

3 Just to give -- I will give the Court an update on
4 two matters; one is discovery in the case. The second are the
5 extradition proceedings related to the other defendants.

6 With respect to discovery, we have substantively
7 completed discovery in this case. We produced what now
8 amounts to approximately 5 million pages of documents, that
9 translates into a million actual records. Some of the records
10 are multiple pages. That discovery includes e-mail accounts,
11 personal e-mail accounts on which the Government executed
12 search warrants, documents from victims, documents from
13 third-party witnesses, as well as from the investment banks
14 that arranged the underlying transactions.

15 Of course, our discovery obligations we understand
16 are ongoing. And to that effect, we continue to scrub our
17 files to triple and quadruple check that we have produced
18 everything we are required to. Obviously, if we have other
19 documents that we did not produce earlier that we realize we
20 should have, we will get those out right away.

21 There are a few, some categories or some documents
22 that continue to come in that somebody received in the interim
23 between the last two status conferences, and there may very
24 well be more that we receive in the interim and we will move
25 to produce those documents expeditiously and get those to

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1 defense right away.

2 The last category is that there are some documents
3 that were tied up in privilege analysis in a filter process.
4 Obviously, the e-mail accounts, the personal e-mail accounts
5 we have contained some documents that were arguably
6 communications between the e-mail holders and their counsel,
7 and we have instituted a filter process. And we are -- as we
8 get documents that are cleared through that filter process, we
9 are producing them as well.

10 THE COURT: Do you have a separate taint team or are
11 the same lawyers reviewing for privilege as are trying the
12 case?

13 MR. AMATRUDA: Thank you for clarifying, Your Honor.
14 There is a separate taint team who review those materials.

15 THE COURT: That's important. Go ahead.

16 MR. AMATRUDA: So that is the status of discovery,
17 but I would like to emphasize that my latter points are simply
18 to say that inevitably there are things that we find, there
19 are things that come up that we will produce expeditiously,
20 but substantively in terms of the discovery in this case,
21 we're done. We've produced -- we've produced with those, I
22 think, minor exceptions, we produced everything and the most
23 significant records that we're aware of.

24 So with respect to the extradition proceedings, the
25 defendant Manuel Chang remains detained in South Africa.

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1 There is a hearing on April 8th to consider the merits of our
2 extradition request. We are hoping, obviously, that we will
3 get a ruling quickly. Procedurally after that we understand
4 there is another step to this that I am not -- we don't know
5 how long it will take, but that's where things stand with
6 that.

7 THE COURT: That's separate and apart, though; as
8 you said earlier, you are ready to go to trial on this case?

9 MR. AMATRUDA: Yes, Judge.

10 THE COURT: You will be ready to go on October 7th?

11 MR. AMATRUDA: That's exactly right, Judge. We are
12 ready to proceed. We will be -- you know, we will be here
13 April 7th -- I'm sorry, we will be here April 7th if the Court
14 wants us to be.

15 THE COURT: October 7th.

16 MR. AMATRUDA: We will be here October 7th. But if
17 Mr. Chang shows up tomorrow, certainly we may ask the Court to
18 consider that, but we are not asking the Court to delay the
19 proceedings while we wait for extradition.

20 THE COURT: That's good because the Court will not
21 do that.

22 MR. AMATRUDA: And that certainly is what we would
23 expect, Your Honor. We appreciate that. And we are not --
24 we're not going to go there.

25 So in terms of the proceedings in the United

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1 Kingdom, the defendants have appeared. We have filed our
2 extradition papers. They've appeared. There is the
3 proceedings or litigation that goes on with those, but as the
4 Court has said, the defense counsel has made clear we don't
5 know how long that's going to take. Hopefully, it will be
6 fast, but --

7 THE COURT: That's what they said about Brexit, so
8 you never know.

9 MR. AMATRUDA: Yes, they have other things going on
10 over there, but we will keep the Court informed. And we will
11 move forward in the interim with this case and, as I made
12 clear, we are ready to go forward with Mr. Boustani.

13 I think that is -- those are the only things that I
14 wanted to raise with the Court.

15 THE COURT: I will urge the parties to put in a
16 briefing motion schedule. If you cannot do it consensually, I
17 will impose one. Now that you know the trial date, I think
18 you should work with defense counsel against a backdrop that
19 indicates if there are going to be motions to suppress or
20 other motions that need to be decided, and obviously you will
21 comply with the Court's individual rules for criminal trials,
22 but I just wanted to get you thinking about that sooner rather
23 than later. All right?

24 MR. AMATRUDA: Yes, and that's fine, Your Honor.
25 We've been able to work with defense counsel productively in

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1 the past with regard to these things.

2 THE COURT: Good.

3 MR. AMATRUDA: I can't imagine that we're going to
4 have any issues figuring out a motion schedule.

5 THE COURT: Thank you.

6 I will hear from defense counsel.

7 MR. SCHACHTER: Your Honor, with respect to the
8 trial date --

9 THE COURT: I'm sorry, would you just speak into the
10 microphone?

11 MR. SCHACHTER: I'm sorry, yes, Your Honor.

12 With respect to the trial dates, I have a couple of
13 conflicts.

14 THE COURT: I am sorry to hear that, but you know,
15 you are the ones who said you wanted to go to trial sooner
16 rather than later. And I can ask the Government if they want
17 to go to trial sooner than October the 7th, but your
18 colleague, Mr. Jackson, talked about needing to get experts
19 and moving people in from around the world, so I thought
20 October 7th was a date that is far enough in the future for
21 you to prepare your defense adequately and for the prosecution
22 to go forward. But if you want to start talking about August
23 dates, we can talk about August dates.

24 Would that be better for you?

25 MR. SCHACHTER: It would, Your Honor.

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1 THE COURT: Do you want to go to trial on this case
2 in August?

3 MR. AMATRUDA: Judge, I -- we certainly would be
4 ready whenever the Court would set the trial date. However,
5 what I would say is that we would anticipate having some
6 legitimate difficulty with witnesses in the middle of August
7 obtaining their appearance. Certainly, we'll be ready to go
8 whenever the Court sets.

9 THE COURT: All right, well, I am going to stick
10 with October the 7th, but I will hear from defense counsel
11 about your scheduling problems.

12 MR. SCHACHTER: Thank you, Your Honor, and I
13 apologize for needing to note this.

14 I have a criminal trial scheduled before Judge
15 Engelmayer on September 22nd that has already been scheduled,
16 as well as a criminal trial before Judge Koeltl on -- that's
17 scheduled for October the 25th. And if it wasn't for set
18 criminal trial dates, believe me, Your Honor, I would not have
19 even mentioned them.

20 THE COURT: Well, now you have another set criminal
21 trial date and my colleagues, Paul Engelmayer is a fine fellow
22 and I'm sure my colleague John Koeltl on the other side of the
23 harbor will understand that you cannot be there and certainly
24 the jury will understand that you can't be here during certain
25 parts the trial.

1 MR. SCHACHTER: So in light of those other trial
2 dates, Your Honor, and in light of the Government's
3 representation that it is ready for trial whenever the Court
4 sets it, we would ask if Your Honor could consider an earlier
5 trial date.

6 There are things to do in this case, but
7 particularly given Mr. Boustani's detention, we are anxious to
8 go to trial as swiftly as is humanly possible.

9 And so we understand that Your Honor has a crowded
10 schedule, but it would be our request that the Court set a
11 date, even if -- we certainly understand the Government's
12 concerns about witnesses' availability in August.

13 THE COURT: Well, I will tell you what we will do,
14 right now I am setting it for Monday, October 7th at 9:30
15 a.m., pick and go. If you and the Government want to come in
16 with a consensual request for a different trial date, you can
17 submit that on ECF and I will take it under advisement.

18 I have the power to move my cases around, just as
19 Engelmayer and Koeltl have the power to move their cases
20 around. So, Moses came down with ten things on the tablet;
21 our trial calendars, despite our enormous Article III egos,
22 were not on it. So, there you go.

23 MR. SCHACHTER: I appreciate that, Your Honor.
24 We'll confer with the Government. I just face three judges
25 who each have the power to incarcerate me.

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1 THE COURT: And which are just great friends, but
2 you have those sort of back-to-school scheduling issues. I
3 get it, okay, go ahead.

4 MR. SCHACHTER: That's all with respect to trial
5 dates.

6 THE COURT: Okay.

7 MR. JACKSON: Again, good afternoon, Your Honor.

8 THE COURT: Good afternoon.

9 MR. JACKSON: Just to note a couple of things.

10 One, first Mr. Amatruda is absolutely correct, we
11 are confident that we can work with the Government in crafting
12 an appropriate briefing schedule that will be helpful to the
13 Court.

14 THE COURT: You handled those search term issues
15 very well, and I appreciate you doing that.

16 MR. JACKSON: We appreciate that, Your Honor.

17 I do want to raise with the Court that I anticipate
18 discussing with the Government an earlier schedule for some of
19 the productions that we typically make before trial than would
20 occur in some of the simpler trials that the Court deals with
21 because the last thing that we want is for the Court to have a
22 raft of extraordinarily complex motions on the eve of trial.
23 So we anticipate that one of the issues we'll be discussing
24 with the Government is early production of 3500 material and
25 exhibits so that we can file timely motions in limine.

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1 We know that the Court, Your Honor's individual
2 rules for typical trials allows for motions in limine shortly
3 before trial, only ten days before, but we think that getting
4 out ahead of what we anticipate will be some significant
5 evidentiary issues and giving the Court adequate time will be
6 a better use of everyone's resources.

7 THE COURT: I appreciate that.

8 MR. JACKSON: Thank you, Your Honor.

9 Also wanted to flag that there are -- the Government
10 has been diligently moving through their rolling discovery.
11 There is a substantial amount of discovery that we've only
12 recently received, at least several hundred-thousand pages of
13 documents that we've gotten relatively recently, and one
14 statement that the Government identified as having been made
15 by Mr. Boustani that was delivered to us, I believe, just
16 yesterday.

17 THE COURT: I saw that statement and as I averred,
18 it seemed to have more to do with subject matter jurisdiction
19 than personal jurisdiction. So whether the statement was made
20 or not made, the reality is subject matter jurisdiction does
21 not depend on a statement made by an individual other than the
22 United States Supreme Court justices, Court of Appeals
23 justices, and occasionally District Court justices.

24 So I mean I read it, it is what it is, but it is no
25 more than what it is --

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1 MR. JACKSON: Absolutely, Judge.

2 THE COURT: -- when it comes to subject matter
3 jurisdiction anyway.

4 MR. JACKSON: That makes sense, Judge. Wanted to
5 just flag that.

6 THE COURT: Consider it flagged.

7 MR. JACKSON: Yes, and we'll be discussing with them
8 sort of the schedule for additional motions.

9 THE COURT: Okay.

10 MR. SCHACHTER: And then, Your Honor, just one more
11 question about our conferring with the Government regarding
12 potential or earlier trial dates to see if they will be
13 amenable to a joint proposal on that.

14 Would it be helpful if we conferred with Your
15 Honor's Courtroom Deputy?

16 THE COURT: No, I think in this case because there
17 are so many moving parts, we have a number of criminal matters
18 that are also vying for the Court's time, and not to say that
19 Social Security appeals, habeas corpus cases, Fair Labor
20 Standard Act cases, Fair Debt Collection Practice Act action
21 cases are not important, and not to say that it has anything
22 to do with the fact that there were four colleagues who were
23 put forward for appointment to the District Court and that
24 Judge Bianco has been approved for the Second Circuit, that
25 has nothing to do with what we are talking about here.

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1 MR. SCHACHTER: Yes, Your Honor. All right, we'll
2 confer with the Government and we'll submit something.

3 THE COURT: Thank you.
4 Anything else?

5 MR. AMATRUDA: Judge, I know that Your Honor will
6 get to this, but we would respectfully ask the Court to enter
7 an order excluding the time between now and trial.

8 THE COURT: We will do that, and Mr. Jackson will
9 circulate that order. Hopefully, all counsel and parties will
10 sign it, but in any event, even if they do not, I have already
11 deemed it a complex trial and I will exclude time in the
12 interest of justice through and including October 7th of 2019.

13 I would hope that the parties and counsel will sign
14 it, but if they do not, if they don't want to say this is a
15 complex case despite millions of documents and dozens of
16 witnesses and international issues, then that is the position
17 they can take.

18 Anything else?

19 MR. AMATRUDA: No; thank you, Your Honor.

20 THE COURT: Anything else from defense counsel?

21 MR. JACKSON: No, Your Honor; thank you.

22 THE COURT: All right, Mr. Jackson, would you
23 circulate the proposed order excluding time in the interest of
24 justice in this case through and including October 7th of
25 2019, so if we can have a sign-off from counsel?

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1 MR. JACKSON: Your Honor, we have -- at this point
2 we are not in a position to waive our client's speedy trial.

3 THE COURT: Okay.

4 MR. JACKSON: Thank you.

5 THE COURTROOM DEPUTY: Here you are, Judge.

6 THE COURT: I have what has been marked as Court 1
7 for identification, a waiver of speedy trial and order of
8 excludable delay in the interest of justice excluding time in
9 this case from today's date, March 28th of 2019, to and
10 including October 7th of 2019.

11 The proposed order has been signed by the Assistant
12 United States Attorney, Mr. Amatruda, the defendant has
13 declined to sign it and defense counsel has declined to sign
14 it. I am signing it and admitting it into evidence as Court
15 1, and time in this case, it is clearly a complex case, is
16 excluded until October 7th, of 2019 when we will pick our jury
17 and go to trial.

18 Anything else I can help counsel with today?

19 Mr. Jackson, here is Court 1 in evidence.

20 (Court's Exhibit 1 was received in evidence.)

21 THE COURT: Anything else?

22 MR. AMATRUDA: No; thank you, Your Honor.

23 THE COURT: Anything else?

24 MR. JACKSON: No; thank you, Your Honor.

25 THE COURT: Thank you. We are adjourned.

SAM

OCR

RMR

CRR

RPR